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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

SEP 22 2010

JAMES R. LARSEN, CLERK  
DEPUTY  
SPOKANE, WASHINGTON

10  
11  
12 UNITED STATES DISTRICT COURT  
13 FOR THE EASTERN DISTRICT OF WASHINGTON

14 EDWARD COLLINS, an individual ) No: CV-10-324-EFS  
15 )  
16 Plaintiff, ) COMPLAINT FOR DAMAGES  
17 )  
18 vs. )  
19 )  
20 BISHOP, WHITE & MARSHALL, )  
21 P.S., a Washington corporation )  
22 )  
23 Defendant. )

24 I. INTRODUCTION

25 1. This is an action for damages brought by Plaintiff Edward Collins, an individual consumer, against Defendant Bishop, White & Marshall, P.S., (hereinafter "Defendant") for violations of the Fair Debt Collection Practices Act,

1 15 U.S.C. § 1692, *et seq.* (hereinafter “FDCPA”), which prohibits debt collectors  
2 from engaging in abusive, deceptive, and unfair practices, and the Washington  
3 Consumer Protection Act, R.C.W. 19.86.020, which prohibits debt collectors from  
4 engaging in unfair and deceptive acts or practices.  
5

## 6 II. JURISDICTION

7 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. §  
8 1337, and supplemental jurisdiction exists for state law claims pursuant to 28  
9 U.S.C. §1367. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and  
10 2202. Venue in this District is proper in that Defendant transacts business in  
11 Spokane, Washington, and the conduct complained of occurred in Spokane.  
12  
13

## 14 III. PARTIES

15 3. Plaintiff, Edward Collins, is a natural person residing in Spokane, Spokane  
16 County, Washington.  
17

18 4. Defendant is a Washington corporation engaged in the business of collecting  
19 debt in this state with its principal place of business located at 720 Olive Way  
20 #1301, Seattle, Washington, and subject to the FDCPA, 15 U.S.C. § 1692, *et seq.*  
21

22 5. Defendant is engaged in the collection of debts from consumers using the  
23 mail and telephone. Defendant regularly attempts to collect consumer debts  
24 alleged to be due to another. Defendant is a “debt collector” as defined by the  
25 FDCPA, 15 U.S.C. § 1692a(6).

IV. FACTUAL ALLEGATIONS

6. Defendant served Plaintiff, Mr. Collins, at his home with an unfiled Summons and Complaint in Washington Superior Court for Spokane County, dated September 28, 2009, on October 8, 2009, demanding payment of a debt in the amount of \$2,835.72 allegedly due FIA Card Services, N.A., plus costs and disbursements incurred in its action, plus post-judgment interest. A copy is attached hereto as Exhibit A.

7. Exhibit A was received by Mr. Collins at his residence in Spokane, Washington.

8. Mr. Collins is a professional counselor and social worker who maintains an exceptionally high credit score of over 800 with all three national credit reporting agencies, and he cannot recall ever missing a payment on the few debts he has incurred throughout his life.

9. Defendant claimed that Mr. Collins' marital community incurred the debt alleged in Exhibit A on a consumer account on behalf of and for the benefit of his marital community.

10. Mr. Collins does not have, nor has ever had, an account relationship with FIA Card Services, N.A., the creditor named on Exhibit A. As such, Mr. Collins' marital community did not incur any debt through FIA Card Services, N.A.

11. Exhibit A represents the first contact Defendant made with Mr. Collins.

1 12. Subsequent to Defendant's initial communication with Mr. Collins (Exhibit  
2 A), Defendant did not provide written notification of the amount, creditor, and  
3 statements of rights regarding the alleged debt.  
4

5 13. After recovering from the shock, dismay, and embarrassment of being  
6 served with Defendant's action to collect a debt Mr. Collins did not owe, and  
7 fearing that his identity had been stolen, Mr. Collins immediately initiated  
8 extensive credit research, monitoring, and protection measures at his own cost and  
9 under considerable stress.  
10

11 14. Defendant contacted Defendant by certified mail correspondence dated  
12 October 23, 2009, requesting verification of the debt alleged by Defendant.  
13

14 15. In response to Mr. Collins' request for verification of debt, on January 28,  
15 2010, Defendant mailed Mr. Collins a copy of an undated and unsigned  
16 "Cardholder Agreement" as well as the personal financial statements of another  
17 individual's credit card activity from June 2008 through November 2008. A copy  
18 of this response is attached hereto as Exhibit B.  
19

20 16. By correspondence dated February 12, 2010, Mr. Collins, by and through  
21 his attorneys, advised Defendant that he did not have, nor has ever had, a  
22 relationship with FIA Card Services, N.A.  
23

24 17. By correspondence to Mr. Collins' counsel dated March 12, 2010,  
25 Defendant acknowledged the February 12, 2010, notification and affirmed that a

lawsuit had been commenced and would proceed against Mr. Collins despite evidence that Mr. Collins was not liable for the subject account.

18. By correspondence dated March 30, 2010, Mr. Collins, by and through his attorneys, demanded that Defendant file its action against him pursuant to Washington Superior Court Civil Rules.

19. Defendant failed and refused to file its action against Mr. Collins within 14 days of demand as required by Washington Superior Court Rule 3(a).

20. As a result of the Defendant's acts alleged above, Mr. Collins suffered actual damages, including severe anxiety and embarrassment, lost wages, and costs associated with credit monitoring and protection services.

#### V. FIRST CLAIM FOR RELIEF: FDCPA

21. Plaintiff, Mr. Collins, repeats and realleges and incorporates by reference the foregoing paragraphs.

22. Defendant violated the Fair Debt Collection Practices Act (hereinafter "FDCPA"). Defendant's violations include, but are not limited to, the following:

- A. The Defendant violated 15 U.S.C. § 1692e(2)(A) by falsely representing the character, amount, or legal status of the alleged debt.
- B. The Defendant violated 15 U.S.C. § 1692e(2)(B) by falsely representing services rendered or compensation which may be lawfully received by Defendant for the collection of the alleged debt.

1 C. The Defendant violated 15 U.S.C. § 1692e(5) by threatening to take  
2 legal action that cannot be taken or that is not intended to be taken.

3 D. The Defendant violated 15 U.S.C. § 1692f(1) by attempting to collect  
4 an amount that is not expressly authorized by an agreement or permitted  
5 by law.

6 E. The Defendant violated 15 U.S.C. § 1692g(a) by failing to provide Mr.  
7 Collins with written notification of the amount, creditor, and statements  
8 of rights within five days after Defendant's initial communication with  
9 him.

10 23. As a result of the foregoing violations of the FDCPA, Defendant is liable to  
11 Mr. Collins for declaratory judgment that Defendant's conduct violated the  
12 FDCPA as well as Mr. Collins' actual damages, including emotional distress,  
13 statutory damages, and costs and attorney fees.

14 VI. SECOND CLAIM FOR RELIEF: WCPA

15 24. Plaintiff, Mr. Collins, repeats and realleges and incorporates by reference  
16 the foregoing paragraphs.

17 25. Defendant's foregoing violations of the FDCPA constitute unfair and  
18 deceptive acts or practices in violation of the State of Washington's Consumer  
19 Protection Act (WCPA), R.C.W. 19.86.020.

1 26. As a result of the foregoing violations of the state Act, Defendant is liable  
2 to Mr. Collins for declaratory judgment that Defendant's conduct violated the  
3 FDCPA as well as Mr. Collins' actual damages, including emotional distress, plus  
4 treble damages as provided by statute, plus costs and attorney fees.  
5

6 WHEREFORE, Plaintiff Edward Collins respectfully requests that judgment be  
7 entered against defendant Bishop, White & Marshall, P.S., for the following:  
8

9 A. Declaratory judgment that Defendant's conduct violated the FDCPA;

10 B. Actual damages pursuant to 15 U.S.C. § 1692k and R.C.W. 19.86.090 for  
11 emotional distress, lost wages, and credit monitoring services in the amount  
12 of \$12,235;  
13

14 C. Statutory damages for violations of the FDCPA pursuant to 15 U.S.C. §  
15 1692k in the amount of \$1,000;  
16

17 D. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k and  
18 R.C.W. 19.86.090;  
19

20 E. Treble the amount of actual damages pursuant to R.C.W. 19.86.090; and

21 F. For such other and further relief as the Court may deem just and proper.

22 Respectfully submitted,

UNIVERSITY LEGAL ASSISTANCE

23 ALAN L. McNEIL, WSBA #7930

24 Attorney for Plaintiff

25 BRIAN CAMERON, WSBA #9117775

Washington Rule 9 Legal Intern for Plaintiff